

FOR PUBLICATION

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

APPELLATE DIVISION

DORALPH B. RABESS,)	
)	
Appellant,)	D.C. Crim. App. # 92-40
)	
v.)	
)	T.C. Civil # F160/1991
)	
GOVERNMENT OF THE VIRGIN ISLANDS,)	
)	
Appellee.)	
_____)	

On Appeal from the Territorial Court of the Virgin Islands

Argued: October 13, 1993

Filed: October 6, 1994

BEFORE: **THOMAS K. MOORE**, Chief Judge, District Court of the Virgin Islands; **RICHARD P. CONABOY**, Senior Judge of the United States District Court for the Middle District of Pennsylvania, Sitting by Designation; and **MARIA M. CABRET**, Judge of the Territorial Court of the Virgin Islands, St. Croix Division, Virgin Islands, Sitting by Designation.

APPEARANCES:

Victor Schneider, Esq.
Territorial Public Defender
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Attorney for Appellant

Darlene Grant, Esq., Asst. Atty. General
V.I. Department of Justice
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St. Thomas, V.I. 00802
Attorney for Appellee

ORDER OF THE COURT

AND NOW, this _6th_ day of October, 1994, after careful review of the record and having considered the submissions and arguments of the parties; and for the reasons set forth in the Court's accompanying Opinion of even date;

IT IS ORDERED:

THAT the Territorial Court's decision is **AFFIRMED** in part and **REVERSED** in part, and the matter is **REMANDED** to the Territorial Court with instructions to **VACATE** appellant's sentences for simple assault and battery and robbery in the third degree and remand for resentencing consistent with this Court's Opinion; and to **VACATE** appellant's sentence for possession of a dangerous weapon with intent to use it unlawfully against another pursuant to V.I. CODE ANN. tit. 14, § 2251(a)(2) and remand for resentencing consistent with this Court's Opinion.

FOR THE COURT:

_____/s/_____
THOMAS K. MOORE
CHIEF JUDGE

A T T E S T:
ORINN F. ARNOLD
Clerk of the Court

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BY: _____
Deputy Clerk

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Copies to: (with copy of Opinion)
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Lori Gilmore, Esq.
Monique Lewis
Honorable Ishmael A. Meyers, Judge of the
Territorial Court